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Attorneys for Defendants *Marwan Shipping  
& Trading, Five Seas Shipping Co., LLC,  
and Al-Buhaira National Insurance Co.*

**FILED**

DISTRICT COURT OF GUAM

JAN 26 2007

MARY L.M. MORAN  
CLERK OF COURT

UNITED STATES DISTRICT COURT  
DISTRICT OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARWAN SHIPPING & TRADING CO.,  
FIVE SEAS SHIPPING CO., LLC AND S.J.  
GARGRAVE SYNDICATE 2724, IN  
PERSONAM, NAVIGATORS PROTECTION  
& INDEMNITY, AND AL-BUHAIRA  
NATIONAL INSURANCE COMPANY,

Defendants

AND CROSS-CLAIMS, COUNTERCLAIMS,  
THIRD-PARTY COMPLAINT, AND CLAIM  
IN INTERVENTION.

NO. CIV06-00011

**AL BUHAIRA NATIONAL INSURANCE  
COMPANY'S ANSWER TO INCHCAPE'S  
AMENDED COMPLAINT IN  
INTERVENTION**

**ANSWER TO AMENDED COMPLAINT IN INTERVENTION**

1. Admit.
2. This answering defendant admits that this Court has jurisdiction of this matter.
3. Admit.

AL BUHAIRA NATIONAL INSURANCE COMPANY'S  
ANSWER TO INCHCAPE'S AMENDED COMPLAINT IN  
INTERVENTION  
CAUSE NO. CIV06-00011 - 1

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1 4. This answering defendant is without knowledge and information sufficient to answer this  
2 paragraph and therefore denies same.

3 5. Denied.

4 6. Admit.

5 7. Admit.

6 8. This answering defendant is without knowledge and information sufficient to answer this  
7 paragraph and therefore denies same.

8 9. An answer to this paragraph is not required from this answering defendant.

9 10. An answer to this paragraph is not required from this answering defendant.

10 11. An answer to this paragraph is not required from this answering defendant.

11 12. An answer to this paragraph is not required from this answering defendant.

12 13. An answer to this paragraph is not required from this answering defendant.

13 14. Al Buhaira National Insurance Company is an insurer engaged in writing marine  
14 insurance risks. Al Buhaira was the Hull and Machinery insurer of the AJMAN 2. The Hull and  
15 Machinery insurance included limited P&I coverage as well. That policy speaks for itself.  
16 Except as so admitted, the allegations of paragraph 14 are denied.

17 15. Admit.

18 16. Admit.

19 17. The underlying factual basis for the U.S. government's lawsuit and Inchcape's Amended  
20 Complaint in Intervention revolve around the events that followed from the entry of the AJMAN  
21 2 into the Port of Guam and the negligent acts and omissions of agents of the US and Inchcape.  
22 Except as so admitted, the allegations of paragraph 17 are denied.

23 18. The US Government claimed that the AJMAN 2 posed a substantial threat of pollution.  
24 The complaint speaks for itself. Except as so admitted, the allegations of paragraph 18 are  
25 denied.

26 19. Denied.

20. Admit.

21. These answering defendants are without knowledge and information sufficient to answer  
22 this paragraph and therefore deny same.

1 22. These answering defendants admit that an agent in the US had to be designated and that a  
2 COFR was required before the AJMAN 2 was allowed to enter the Port of Guam. Except as so  
3 admitted, the allegations of paragraph 22 are denied.

4 23. These answering defendants are without knowledge and information sufficient to answer  
5 this paragraph and therefore deny same.

6 24. The COFR application speaks for itself. Except as so admitted, the allegations of  
7 paragraph 24 are denied.

8 25. The US Government served its summons and complaint on Five Seas through Inchcape.  
9 Except as so admitted, the allegations of paragraph 25 are denied.

10 26. The COFR application speaks for itself. Except as so admitted, the allegations of  
11 paragraph 24 are denied.

12 27. Denied.

13 28. Inchcape notified Five Seas of the Government's Lawsuit. Except as so admitted, the  
14 allegations of paragraph 28 are denied.

15 29. These answering defendants are without knowledge and information sufficient to answer  
16 paragraph 29 and therefore deny same.

17 30. These answering defendants are without knowledge and information sufficient to answer  
18 paragraph 30 and therefore deny same.

19 31. These answering defendants are without knowledge and information sufficient to answer  
20 paragraph 31 and therefore deny same.

21 32. These answering defendants are without knowledge and information sufficient to answer  
22 paragraph 32 and therefore deny same.

23 33. Denied.

24 34. Denied.

25 35. Navigators, Al Buhaira and S.J. Gargrave were insurers of the AJMAN 2. As for Al  
26 Buhaira National Insurance Company, the existence of that insurance has never been denied.  
Except as so admitted or commented upon, the allegations of paragraph 35 are denied.

36. Navigators and Al Buhaira and S.J. Gargrave were insurers of the AJMAN 2. Except as  
so admitted, the allegations of paragraph 36 are denied.

37. Admit.

1 38. This answering defendant does not know what damage was incurred by the Port of Guam  
2 and therefore can neither admit nor deny the allegations.

3 39. This answering defendant is without knowledge and information sufficient to answer this  
4 paragraph and therefore denies same.

5 40-52. An answer to these paragraphs is not required from this answering defendant.

6 53. No answer is required to paragraph 53.

7 54. This answering defendant does not know what damages the Port claims and is, therefore,  
8 without knowledge and information sufficient to answer this paragraph, and therefore denies  
9 same.

10 55. Al Buhaira National Insurance Company has neither admitted nor denied coverage for  
11 any claims which may be made by the Port. Until it is known what damages the Port may claim,  
12 this answering defendant cannot take a position on coverage. Accordingly, the allegations of this  
13 paragraph are denied.

14 56. Inchcape seeks a declaration. Except as so admitted, denied.

15 57. Inchcape seeks a declaration. Except as so admitted, denied.

16 58. No answer is required to paragraph 58.

17 59. This answering defendant is without knowledge and information sufficient to answer this  
18 paragraph and therefore denies same.

19 60. Denied.

20 61. No answer is required to paragraph 61.

21 62. Denied.

22 63. Denied.

23 64. No answer is required to paragraph 64.

24 65. Denied.

25 66. Denied.

26 **AFFIRMATIVE DEFENSES TO INTERVENOR'S AMENDED COMPLAINT**

1. Failure to state facts sufficient to constitute a cause of action against this  
answering defendant.

1 2. This answering defendant is informed and believes that if the Intervenor plaintiff  
2 sustained any injuries and damages, they proximately resulted from the conduct of the  
3 Intervenor plaintiff and/or others.

4 3. The claims set forth in the complaint in intervention are time barred.

5 4. Intervenor plaintiff, by its conduct and/or the conduct of its agents, servants,  
6 representatives, or employees, has waived and/or is estopped and barred from any rights of  
7 recovery against this answering defendant.  
8

9 5. Intervenor plaintiff is barred from any relief against this answering defendant by reason  
10 of unclean hands.

11 6. Intervenor plaintiff and/or other parties not related to this defendant were careless and  
12 negligent in and about the matters referred to in the complaint in intervention, or were  
13 otherwise responsible and legally liable for the allegations contained in said pleading, which  
14 negligence, carelessness, and/or legal liability proximately contributed to and/or were the  
15 sole proximate cause of the damages or injuries complained of, if any there be. Such  
16 negligence, carelessness, and/or liability bar and/or proportionately reduce any recovery  
17 against this answering defendant.  
18

19 7. Intervenor plaintiff has failed to mitigate and minimize its damages, if any there be, and  
20 said failure eliminates or reduces any claim for relief by Intervenor plaintiff against this  
21 answering defendant.  
22

23 8. In the event it is held liable, this answering defendant alleges that its liability is secondary  
24 to other parties in this action and on that basis allege that any award to which the Intervenor  
25 plaintiff is entitled must first be satisfied by said other parties.

26 9. Intervenor plaintiff lacks standing to assert its claims in this action.

1 10. Intervenor plaintiff's claims, if any, are not ripe for adjudication at this time and/or in this  
2 forum.

3 11. This answering defendant hereby incorporates all defenses raised or that could be raised  
4 by other parties to this action as if asserted here in full.

5 12. This answering defendant reserves the right to supplement and add to these affirmative  
6 defenses as appropriate.  
7

8  
9 DATED this 26<sup>th</sup> day of January, 2007.

10 CAIRNCROSS & HEMPELMANN, PS

11 TEKER TORRES & TEKER, P.C.

12  
13 By: 

14 PHILLIP TORRES, ESQ., Attorneys for  
15 Defendant Marwan Shipping & Trading Co.,  
16 Sharjah, Five Seas Shipping Co., LLC, Sharjah, and  
17 Al-Buhaira National Insurance Co.  
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**CERTIFICATE OF SERVICE**

The undersigned certifies under the penalty of perjury according to the laws of the United States that on this date I caused to be served in the manner noted below a copy of this document entitled AL BUHAIRA NATIONAL INSURANCE COMPANY'S ANSWER TO INCHCAPE'S AMENDED COMPLAINT IN INTERVENTION; AND COUNTERCLAIM on the following individuals:

Office of the United States Attorney  
108 Hernan Cortez Avenue, Suite 500  
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David Ledger  
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Law Offices of Thomas Tarpley  
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DATED this 26<sup>th</sup> day of January, 2007.

  
PHILLIP TORRES